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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,109	04/08/2004	Michael Cafaro	HEL177/4-010US	8231
<div>7590 Timothy S. Corder VINSON & ELKINS LLP 2300 First City Tower 1001 Fannin Houston, TX 77002-6760</div>			<div>EXAMINER RUNNING, RACHEL A</div>	
			<div>ART UNIT 3732</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE 12/18/2007</div>	<div>DELIVERY MODE PAPER</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/821,109

Applicant(s)

CAFARO ET AL.

Examiner

Rachel A. Running

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 9-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leung (United States Patent Publication No. 2003/0052115) in view of Nakagawa et al. (United States Patent Publication No. 2002/0189128).

Leung discloses a hair styling device that heats hair by conduction of heat from a heated surface (see para 0028) and includes a fan and a motor. The device further comprises a handle portion 100, a barrel portion 300 adjoining the handle portion, a heater 216 contained in the barrel portion, a flipper 303 mechanically linked to a flipper actuator, air inlets in the housing, an air guide 119 for directing air into the barrel; and outlet holes 307 formed in the barrel. Leung does not disclose the ion generator. Nakagawa et al. disclose a hair styling appliance having an ion generator system 62. The ion generator system comprises an anode pin and a cathode ring. The device further includes an indicator LED 9 for the ion generator. It would have been obvious to one skilled in the art to provide the curling iron of Leung with an ion generator system in view of Nakagawa et al. in order to treat the hair and make it smooth and silky.

Claims 1, 3-6 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cha (United States Patent Publication No. 2005/0056631) in view of Nakagawa et al.

Cha discloses a flat straightener comprising a housing, heating plates 5, an ion generator comprising an array of electrodes, and an airflow system comprising an air guide, air inlets and air outlets 13. Cha does not disclose the motor and the fan. Nakagawa et al. disclose a hair styling appliance having an ion generator system 62 and a motor and fan. The ion generator system comprises an anode pin and a cathode ring. The device further includes an indicator LED 9 for the ion generator. It would have been obvious to one skilled in the art to provide the straightener of Cha with motor and fan in view of Nakagawa et al. in order to provide better flow of air and ions.

Response to Amendment

The declaration filed on October 19, 2007 under 37 CFR 1.131 has been considered but is ineffective to overcome the Cha (US 2005/0056631) reference.

The declaration is ineffective because it fails to disclose acts formed in this country. The declaration also has to be signed by all inventors.

Response to Arguments

Applicant's arguments filed October 19, 2007 have been fully considered but they are not persuasive.

In response to applicant's arguments that Leung reference lacks a heater contained in the barrel, Leung discloses in paragraph 25 that the barrel portions houses a heater.

In response to applicant's argument that Leung makes no reference of the heat-conductive properties of the barrel, Leung discloses in paragraph 15 "a barrel or barrel portion having a cavity and having a heatable surface".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel A. Running whose telephone number is (571) 272-1917. The examiner can normally be reached on Monday-Friday 7:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


ROBYN DOAN
PRIMARY EXAMINER

December 10, 2007

Rachel A. Running
Examiner
Art Unit 3732
